

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION  
SITTING AS THE STATE BOARD OF  
EQUALIZATION AND REVIEW  
14 PTC 0432

IN THE MATTER OF:  
THE APPEAL OF:

**ERROLL V. BLACK**

**ORDER**

from the decision of the  
Mecklenburg County Board  
of Equalization and Review  
concerning the valuation of  
certain real property for tax  
tax year 2011.

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This appeal was heard before the North Carolina Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Thursday, April 16, 2015, pursuant to the Motion filed by counsel for Mecklenburg County for dismissal of the subject appeal of **Erroll V. Black** (“Appellant” or “Taxpayer”) based upon the doctrines of res judicata and collateral estoppel from the decision of Mecklenburg County Board of Equalization (“County Board”) regarding the valuation of his property for tax year 2011.

Vice Chairman Terry L. Wheeler presided over the hearing with Commission members David A. Smith and Jack C. (Cal) Morgan III participating.

Appellant appeared at the hearing pro se. Attorney Ronald L. Gibson, Esquire appeared at the hearing on behalf of Mecklenburg County.

At the hearing, Mecklenburg County, through counsel, moved the Commission to dismiss the above-captioned appeal based upon the doctrines of res judicata and collateral estoppel, as set forth in Mecklenburg County’s Motion to Dismiss.

**ARGUMENT**

The doctrine of res judicata bars claims that have been previously adjudicated. The elements of res judicata are as follows: “(1) a final judgment on the merits in an earlier suit, (2) an identity of the causes of action in both the earlier and the later suit, and (3) an identity of the parties or their privies in the two suits.” Caswell Realty Assoc. v. Andrews Co., 128 N.C. App. 716, 720, 496 S.E.2d 607, 610 (1998). A final judgment, rendered on the merits by a court of competent jurisdiction, is conclusive as to the issues raised therein with respect to the parties and those in privity with them and constitutes a bar to all subsequent actions involving the same issues and parties.” Kabatnik v. Westminster Co., 63 N.C. App. 708, 711-712, 306 S.E.2d 513, 515 (1983).

The doctrine of collateral estoppel also bars the Appellant's current challenge of the value of the subject property. Collateral estoppel applies "where the second action between the same parties is upon a different claim or demand, [and] the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." *King v. Grindstaff*, 284 N.C. 348, 356, 200 S.E.2d 799, 805 (1973)(quoting *Cromwell v. County of Sac*, 94 U.S. 351, 353, 24 L. Ed. 195, 198 (1876)), quoted in *In re Wilkerson*, 57 N.C. App. 63, 291 S.E.2d 182 (1982). Under the doctrine of collateral estoppel, the Appellant is estopped from challenging the 2011 value of the subject property.

## ISSUE

The issue in this appeal is the value of the subject property as of January 1, 2011, which value is carried forward for tax years 2012, 2013 and 2014. The Taxpayer is contesting the 2011 value of the subject property that is the value of the property determined by the Commission in the final decision entered in Appellant's prior appeal.<sup>1</sup>

**BASED ON THE MOTION TO DIMISS AND THE RESPONSE THERETO, AND AFTER HEARING FROM COUNSEL FOR MECKLENBURG COUNTY AND APPELLANT'S OPPOSITION TO THE MOTION TO DISMISS THIS APPEAL, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. This case involves Mecklenburg Tax Parcel # 001-111-71, which is also known as 21231 Island Forest Drive, Cornelius, North Carolina, 28031 ("Property").
2. Pursuant to N.C. Gen. Stat. § 105-286, Mecklenburg County ("County") conducted a reappraisal of all real property in Mecklenburg County as of January 1, 2011.
3. In early 2011, the County mailed a Notice of Real Property Assessed Value to Erroll V. Black ("Taxpayer"), the owner of the Property as of January 1, 2011, advising that the market value for the Property was \$816,600.
4. The Taxpayer appealed the value to the Mecklenburg County Board of Equalization and Review ("County Board"). The County Board heard the appeal on May 8, 2012 and reduced the value of the Property to \$747,600.
5. The Taxpayer filed a Notice of Appeal with the Commission and the appeal proceeded under file number 12 PTC 572. The appeal was heard by the Commission on May 13, 2014. At the hearing, the County stipulated that the value of the Property should be adjusted from \$747,600 to \$563,900.
6. The Taxpayer presented evidence at the hearing, including testimony by the Taxpayer and exhibits presented.

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<sup>1</sup> Reference is made to the final decision entered by the Commission in property tax file number 12 PTC 572.

7. The Commission ruled in favor of the County and upheld the \$563,900 value.<sup>2</sup>
8. The Taxpayer did not appeal the Final Decision entered by the Commission on August 21, 2014 to the North Carolina Court of Appeals.
9. In July 2013, Session Law 2013-362 (“SL 2013-362) was enacted by the Legislature. Pursuant to SL 2013-362, Mecklenburg County retained Pearsons Appraisal Service, Inc. to review the value of all parcels in Mecklenburg County for the 2011 reappraisal.
10. On November 12, 2013, the Mecklenburg Board of County Commissioners approved the Pearsons Appraisal Service, Inc.’s recommended value of \$563,900 for the Property.
11. The Taxpayer appealed that value to the County Board. By decisions dated November 24, 2014, the County Board affirmed the \$563,900 value for the Property for tax years 2011 through 2014. Thereafter, the Taxpayer appealed those decisions to the Commission.
12. The Commission’s determination that the 2011 value of the subject property was \$563,900 as set forth in the final decision, entered on August 21, 2014, operates as an estoppel to Appellant’s claims in this appeal that the value should be different.
13. The Taxpayer had the value of the subject property fully adjudicated by the Commission.
14. The Taxpayer failed to appeal that prior final decision to the North Carolina Court of Appeals.
15. All of the elements of the doctrine of res judicata have been met and in this appeal.
16. Under the doctrine of collateral estoppel, the Taxpayer is estopped from challenging the 2011 value of the subject property.
17. The Taxpayer is barred based upon the doctrines of res judicata and collateral estoppel from continuing to challenge the \$563,900 valuation of the subject property.
18. The subject appeal is dismissed based upon the doctrines of res judicata and collateral estoppel.

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<sup>2</sup> See final decision entered by the Commission on August 21, 2014 in Taxpayer’s appeal file 12 PTC 572.

**BASED ON THE FOREGOING FINDINGS OF FACT, THE COMMISSION  
MAKES THE FOLLOWING CONCLUSIONS OF LAW:**

1. The doctrine of res judicata bars claims that have been previously adjudicated. The elements of res judicata are as follows: "(1) a final judgment on the merits in an earlier suit, (2) an identity of the causes of action in both the earlier and the later suit, and (3) an identity of the parties or their privies in the two suits." Caswell Realty Assoc. v. Andrews Co., 128 N.C. App. 716, 720, 496 S.E.2d 607, 610 (1998).

2. The doctrine of collateral estoppel also bars the Appellant's current challenge of the value of the subject property. Collateral estoppel applies "where the second action between the same parties is upon a different claim or demand, [and] the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." King v. Grindstaff, 284 N.C. 348, 356, 200 S.E.2d 799, 805 (1973)(quoting Cromwell v. County of Sac, 94 U.S. 351, 353, 24 L. Ed. 195, 198 (1876)), quoted in In re Wilkerson, 57 N.C. App. 63, 291 S.E.2d 182 (1982). Under the doctrine of collateral estoppel, the Taxpayer is estopped from challenging the 2011 value of the subject property.

3. The final decision of the Commission in appeal file number 12 PTC 572 was a final judgment on the merits of Appellant's appeal of the 2011 valuation of the subject property.

4. The causes of action in appeal file number 12 PTC 572 are the same as in this action.

5. The parties are the same in both appeals filed with the Commission in these cases.

6. Accordingly, all of the elements of the doctrine of res judicata have been met in this appeal.<sup>3</sup>

7. Under the doctrine of collateral estoppel, the Taxpayer is estopped from challenging the 2011 value of the subject property.<sup>4</sup>

8. The subject appeal is dismissed based upon the doctrines of res judicata and collateral estoppel.

**WHEREFORE, IT IS THEREFORE ORDERED BY THE COMMISSION** that Mecklenburg County's Motion to Dismiss this appeal is granted based upon the doctrines of res judicata and collateral estoppel.

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<sup>3</sup> "A final judgment, rendered on the merits by a court of competent jurisdiction, is conclusive as to the issues raised therein with respect to the parties and those in privity with them and constitutes a bar to all subsequent actions involving the same issues and parties." Kabatnik v. Westminster Co., 63 N.C. App. 708, 711-712, 306 S.E.2d 513, 515 (1983).

<sup>4</sup> King v. Grindstaff, 284 N.C. 348, 356, 200 S.E.2d 799, 805 (1973)(quoting Cromwell v. County of Sac, 94 U.S. 351, 353, 24 L. Ed. 195, 198 (1876)), quoted in In re Wilkerson, 57 N.C. App. 63, 291 S.E.2d 182 (1982).

NORTH CAROLINA PROPERTY TAX COMMISSION



*Terry L. Wheeler*

Terry L. Wheeler, Vice Chairman

Commission Members Smith and Morgan concur.  
Chairman Peaslee and Commission Member Shaw did not  
participate in the hearing or deliberation of this appeal.

Entered: June 19, 2015

Attest:

*Janet L. Shires*  
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Janet L. Shires, General Counsel  
Commission Secretary